

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EKO BRANDS, LLC,

Plaintiff,

v.

ADRIAN RIVERA MAYNEZ
ENTERPRISES, INC.; and
ADRIAN RIVERA,

Defendants.

C17-894 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendants’ motion to alter or amend judgment or alternatively for a new trial, docket no. 180, is DENIED. Defendants’ motion is premised on a misreading of the United States Supreme Court’s recent decision in Romag Fasteners, Inc. v. Fossil, Inc., 140 S. Ct. 1492 (2020). Defendants contend that Romag rendered “obsolete and erroneous” the legal standard pursuant to which the Court awarded to plaintiff certain profits earned by defendants. The Court premised the disgorgement of profits on a finding of willfulness. See Findings of Fact and Conclusions of Law at ¶¶ 32-60 (docket no. 149). Contrary to defendants’ assertion, the Romag Court did not cast any doubt on the validity of an award of profits that is based on willful infringement. Rather, in Romag, the Supreme Court held that, to recover a defendant’s profits under 15 U.S.C. § 1117(a), a plaintiff need not necessarily prove willfulness. See 140 S. Ct. at 1495-97. In other words, in this case, plaintiff might have been entitled to the same disgorgement of profits even if willful infringement had not been shown. Willfulness having been established, however, the Court appropriately applied “principles of equity” to award certain profits attributable to the trademark infringement. See 15 U.S.C. § 1117(a).

1 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
2 record and to the United States Court of Appeals for the Ninth Circuit.

3 Dated this 4th day of June, 2020.

4 William M. McCool
5 Clerk

6 s/Karen Dews
7 Deputy Clerk